United Nations S/AC.44/2004/(02)/109

Security Council

Distr.: General
1 April 2005
English
Original: Arabic and English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 31 March 2005 from the Permanent Mission of Kuwait to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Kuwait to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to forward herewith the report of the State of Kuwait, in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

05-29863 (E) 200405 220405

Annex to the note verbale dated 31 March 2005 from the Permanent Mission of Kuwait to the United Nations addressed to the Chairman of the Committee

Brief report on the conventions on weapons of mass destruction by which the State of Kuwait has agreed to be bound and on national legislation

I. International conventions on weapons to which the State of Kuwait has acceded

1. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water — Act No. 16 of 1965 — date of accession: 30 March 1965
2. Agreement on Arab cooperation for the use of atomic energy for peaceful purposes — approval of accession granted on 1 July 1968 by Act No. 35 of 1968
3. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, Geneva, 1925 — date of accession: 19 December 1970
4. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction — accession by Kuwait on 5 June 1972
5. Treaty on the Non-Proliferation of Nuclear Weapons — date of ratification: 2 October 1989
6. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed in Paris on 27 January 1993 — ratified on 2 May 1997
7. Agreement between the State of Kuwait and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Additional Protocol thereto — approved on 3 February 2002 by Act No. 15 of 2002
8. Protocol additional to the Agreement between the State of Kuwait and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons — approved on 23 April 2003 by Act No. 14 of 2003
9. Comprehensive Nuclear-Test-Ban Treaty (CTBT) — approved on 18 February 2003 by Act No. 7 of 2003
10. Convention on Early Notification of a Nuclear Accident — accession by Kuwait on 18 February 2003
11. Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency — accession by Kuwait on 18 February 2003

II. National legislation on weapons of mass destruction passed by the State of Kuwait

1. A committee to regulate the handling of chemicals was established pursuant to Environment Public Authority decision No. 193. The committee's mandate is to issue the necessary permit for the exportation or importation of any chemical or biological substance. Pursuant to that decision, the General Administration of Customs issued Customs Instructions No. 58 of 2000, according to which chemicals may be imported or exported only with the approval of the Environment Public Authority (appendix 1).

To approve the issuance of a permit for any chemicals covered by the Chemical Weapons Convention, the Environment Public Authority requires the approval of the committee established by ministerial decision No. 323 of 2000, which is charged with monitoring the implementation of that Convention. The committee has prepared draft national legislation which has been submitted to the competent authorities with a view to the completion of the constitutional formalities for its implementation. The legislation criminalizes dealing with chemicals in any way that goes against the Chemical Weapons Convention (appendix 2).

2. Customs Instructions No. 24 of 1982 concerning the importation of radiation equipment and radioactive materials, which make it a requirement for the person concerned to furnish a certificate confirmed by the Ministry of Health and stating the Ministry's approval of the release of such materials (appendix 3).

3. Customs Instructions No. 22 of 1993 concerning the procedures for the release of imported radiation equipment and radioactive materials. These Instructions provide that the release of radiation equipment and radioactive materials imported from abroad may take place only upon the presentation of a permit for the release of such equipment or substances issued by the Ministry of Health, Radiation Protection Department (appendix 4).

4. Article 171 of Act No. 16 of 1960 promulgating the Penal Code provides that anyone who commits an act whereby he causes a danger which threatens persons or things being transported on a public thoroughfare, be it by damaging parts of the thoroughfare or a means of transport or by issuing misleading signals, instructions, warnings or calls with the intent to cause harm to persons or things, shall be punished by imprisonment for up to five years or a fine of up to five thousand rupees or both (appendix 5).

5. Article 3 of Act No. 35 of 1985 concerning crimes involving explosives stipulates that explosives include bombs, dynamite, gunpowder and, generally speaking, every material which, by virtue of its natural or chemical properties, causes an explosion (appendix 6).

6. Article 1 of Act No. 35 of 1985 concerning crimes involving explosives provides that anyone who uses or attempts to use explosives for the purpose of killing any person, spreading terror or demolishing buildings or facilities belonging to the State shall be punished by death or by life imprisonment (appendix 7).

Appendix 1

Ministry of Finance
General Administration of Customs
Office of Legal Affairs

Symbol No.: 4

Customs Instructions No. 58 of 2000 concerning the prohibition against the importing or exporting of hazardous waste or used oil residues or chemicals without the prior approval of the Environment Public Authority

The Director-General of Customs,

Pursuant to the Environment Public Authority letter entered in the Public Records as incoming item No. 1857 on 22 May 2000 and with reference to the meeting held with Authority officials on 31 July 2000 concerning the prohibition against the exportation or importation by any company of a load of hazardous waste or used oil residues or chemicals unless it has obtained prior approval from the Environment Public Authority,

With reference to the Environment Public Authority letter entered in the Public Records as incoming item No. 3731 on 20 September 2000, containing the names and signatures of the competent officials of the Environment Public Authority,

Requests directors and managers to instruct their competent staff members not to permit the importing or exporting of hazardous waste or used oil residues or chemicals in the absence of prior approval from the Environment Public Authority.

For information and compliance.

Issued on 3 October 2000.

Annexes: Copy of the names and specimens of the signatures of the Environment Public Authority officials authorized to follow the procedures for the exportation of hazardous waste and the release of used oil residues and chemicals.

[*Signature*]
Director-General
General Administration of Customs

Copies to:

Deputy Director-General
Ministry of Commerce and Industry
Chamber of Commerce and Industry
Environment Public Authority
Industry Public Authority
Deputy Minister of Information (for publication in the official gazette)

A. Dallal: B.K. (B18) [*Signature*]

Appendix 2

In the name of God, the Merciful, the Compassionate

State of Kuwait
Deputy Prime Minister and Minister of Defence

Ministerial Decision No. 323 of 2000 on the creation and formation of the national committee to serve as a focal point for liaison with the Organization for the Prohibition of Chemical Weapons

Following the examination of:

- Act No. 32 of 1967, concerning the army, as amended;
- Act No. 3 of 1997, concerning the ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;
- Ministerial Decision No. 30/93, concerning the organization of the Ministry of Defence, as amended;
- Ministerial Decision No. 11/98, concerning the organization of the Military Authority, as amended;
- Ministry of Foreign Affairs letter No. 26147, dated 16 November 1997, concerning the basis for the establishment and the chairmanship of the said Ministry of Defence committee;
- Ministry of Petroleum letter No. 297, dated 14 March 2000, concerning the nomination of the Ministry's proposed representative on the said committee;
- Letter No. M.`Ayn.Sh./75 of the Office of the Chief of the Army General Staff, dated 29 January 1998, concerning the nomination of proposed members of the said committee;
- Environment Public Authority letter No. EPA/226, dated 18 January 2000, concerning the nomination of the Authority's proposed representative on the said committee;
- Industry Public Authority letter No. 5/S/114 dated 8 March 2000 concerning the nomination of the Authority's proposed representatives;
- Military Judiciary letter No. 244, dated 16 January 1999, concerning the nomination of its proposed representatives on the said committee,

And upon agreement with the Ministry of Foreign Affairs, in accordance with the exchange of letters Nos. 9992490 dated 20 October 1999, 220001579 dated 15 November 1999 and 27977 dated 18 December 1999 and the proposal of the Deputy Minister,

The following has been decided:

Article I

The committee whose establishment is provided for in article VII of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction is hereby created and formed under the chairmanship of the Deputy Minister of Defence, during whose absence the Assistant Deputy Minister for Legal Affairs, Mr. Ahmad Hamd Al-Farisi, shall take his place and act in his stead, and with the membership indicated below:

Ministry of Defence		
Colonel Yusif Hussein Muhsin, Engineer	Chemical Defence Directorate	Member
Colonel Barrak Abd al-Muhsin Al-Barjas, Jurist	Military Judiciary	Member
Major Majid Falih al-Shatti, Engineer	Chemical Defence Directorate	Member
Ms. Jinan Hammud Al-Shaybi, Chemical Engineer	Chemical Defence Directorate	Member and Rapporteur
Ministry of Foreign Affairs		
Mr. Dhiyab Farhan Al-Rashidi	Third Secretary, Legal Department	Member
Mr. Salim Rashid al-Shibli	Diplomatic Attaché, Legal Department	Member
Ministry of Petroleum		
Mr. Muhammad Ja`far Al-Shawwaf	Director, Directorate of Environmental Conservation and Protection Affairs	Member
Environment Public Authority		
Mr. Abd al-Wahhab Al-Sayyid, Engineer		Member
Industry Public Authority		
Mr. Ali Mohammed Al-Harban	Director, Department of Industrial Safety and Environmental Control	Member
Mr. Abdullah Dawud Al-Sahli,	Chief, Industrial Safety Department	Member

Article II

The committee shall be placed under the Ministry of Defence, where it shall have its headquarters. The Ministry shall oversee all the committee's activities, facilitate its tasks and endeavour to implement its recommendations. The Ministry authorities concerned shall establish the financial procedures and request the necessary credits for the committee to carry out its work.

Article III

The said committee shall serve as a Kuwait's national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and with other States Parties and for related coordination with the relevant bodies concerned with the obligations and commitments provided for in the said Convention. For that purpose it shall undertake the following:

1. To gather information on chemicals from the official agencies, authorities and plants concerned and declare them to the Organization;
2. To establish appropriate machinery to facilitate inspection operations regarding the substances and materials whose use is prohibited by the Convention;
3. To report any activity prohibited by the Convention or in conflict with its provisions;
4. To receive the list of names of inspectors and their assistants, communicate it to the services concerned and inform the Organization of the decision of the Ministry concerning its approval thereof or objection thereto, in coordination with the Ministry of Foreign Affairs;
5. To receive inspection teams and facilitate their tasks in coordination with the services concerned;
6. To provide information concerning the programme of national assistance and protection against chemical weapons and establish the rules and conditions relating to requests for such assistance and protection;
7. To create awareness among the services concerned of the objectives and importance of the Convention and the provisions contained in it;
8. To maintain confidential information pertaining to the articles of the Convention and prepare lists for the dissemination of information;
9. To inform the Organization of the legislative and administrative measures adopted with a view to the implementation of the Convention.

Article IV

The committee may, for the purpose of performing the tasks entrusted to it, seek the assistance of such Ministry of Defence or other experts as it sees fit.

Article V

The chairman of the committee may communicate orally or in writing with all services concerned both within and without the Ministry. Correspondence with

international organizations and agencies, however, shall be conducted through the Ministry of Foreign Affairs.

Article VI

The committee shall have a technical and administrative secretariat concerning the organization of which a decision shall be issued by the committee chairman.

Article VII

The committee shall submit an annual report on its activities and recommendations to the Deputy Prime Minister and Minister of Defence.

Article VIII

The services concerned, each as relates to it specifically, shall implement the present decision.

(*Signed*) Salim **Al-Sabah**
Deputy Prime Minister and Minister of Defence

Issued on 25 March 2000

Appendix 3

In the name of God, the Merciful, the Compassionate
State of Kuwait

Ministry of Finance
General Administration of Customs

Date: 22 November 1982

Customs Instructions No. 24 of 1982 concerning the importation of radiation equipment and radioactive materials

The Director General of Customs,

Pursuant to the decision adopted by the Council of Ministers at its session 13/73 held on 1 April 1973,

Pursuant also to Decree-Law No. 131 of 1977 on the regulation of the use of ionizing radiation and protection against its hazards, published in the official gazette, Al-Kuwait Al-Yawm, No. 1167, on 17 November 1977,

In further confirmation of Customs Proclamation No. 1/73 issued on 15 April 1973,

Requests directors not to release any radiation equipment or radioactive materials except upon the presentation by the parties concerned of a certificate approved by the Ministry of Public Health indicating the Ministry's agreement to the release of such materials.

Director-General of Customs
(*signature*)

Appendix 4

Symbol No.: 8

In the name of God, the Merciful, the Compassionate

Ministry of Finance
General Administration of Customs

Customs Instructions No. 22 of 1993 concerning the procedures for the release of radiation equipment and radioactive materials imported from abroad

The Director General of Customs,

Pursuant to the decision adopted by the Council of Ministers at its session 13/73 held on 1 April 1973,

Pursuant also to Decree-Law No. 131 of 1977 on the regulation of the use of ionizing radiation and protection against its hazards,

Further to Customs Instructions No. 24 of 1982, issued on that subject,

Pursuant further to Ministry of Public Health letter No. 3498 of 29 April 1993,

Requests directors not to release any radiation equipment or radioactive materials imported from abroad except upon the presentation of an authorization for the release for such equipment or materials issued by the Ministry of Public Health, Radiation Protection Department, and signed by either of the following:

1. Dr. Yusif Ya'qub Baqir, Head of the Radiation Protection Department and Rapporteur of the Radiation Protection Committee;
2. Mr. Sulayman Dinar Al-Zanki, Deputy Head of the Radiation Protection Department;

in accordance with the annexed signature specimens.

Director-General
General Administration of Customs
(*signature*)

Issued on 12 May 1993

Appendix 5

Act No. 16 of 1960

Article 171

Anyone who commits an act whereby he causes a danger which threatens persons or things being transported on a public thoroughfare, be it by damaging parts of the thoroughfare or a means of transport or by issuing misleading signals, instructions, warnings or calls with the intent to cause harm to persons or things, shall be punished by imprisonment for up to five years or a fine of up to five thousand rupees or both.

If such act results in the serious injury of one or more persons, the penalty shall be imprisonment for up to 15 years, to which there may be added a fine of up to 15,000 rupees. If the act results in a human death, the penalty shall be death or imprisonment for life.

Appendix 6

Act No. 35 of 1985

Article 3

Anyone who acquires, possesses, manufactures, obtains, imports, exports, transports or trades in explosives or attempts to do any of the above prior to obtaining a licence therefor in accordance with the terms and conditions defined by the Minister for Foreign Affairs shall be punishable by imprisonment for a term of not less than seven years. If the purpose thereof is to commit or enable another person to commit a crime by means of such explosives, the penalty shall be imprisonment for a term of not less than 10 years.

Explosives include bombs, dynamite, gunpowder and, generally speaking, every material which, by virtue of its natural or chemical properties, causes an explosion, as well as any other substance or material into whose composition explosives enter and concerning which a decision of the Minister for Foreign Affairs defining it is issued, and apparatuses, machines and instruments employed in the manufacture or detonation thereof.

The decision referred to shall be published in the official gazette and shall enter into force only upon such publication.

Seized explosives shall be ordered confiscated.

Appendix 7

Act No. 35 of 1985 concerning crimes involving explosives

The National Assembly, having examined:

- Article 65 of the Constitution;
- Act No. 16 of 1960 on the promulgation of the Penal Code, as amended;
- Act No. 31 of 1970 in the amendment of certain provisions of the Penal Code;
- Act No. 26 of 1969 on the creation of the State Security Court,

Has agreed upon the Act whose text follows, which we have approved and issued:

Article I

Anyone who uses or attempts to use explosives for the purpose of killing any person, spreading terror or demolishing buildings or facilities belonging to the State, public institutions or agencies, companies in which the State holds a share, associations of recognized public interest or other establishments, buildings, factories, houses of worship, places intended for public meetings or frequentation by the public or in which the public congregates spontaneously even though they are not designed for that purpose or any place that is inhabited or intended to be inhabited shall be punished by death or by imprisonment for life.

If the death of any person results therefrom, the penalty shall be death.